

Appendix D

Agency Correspondence

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State of Utah

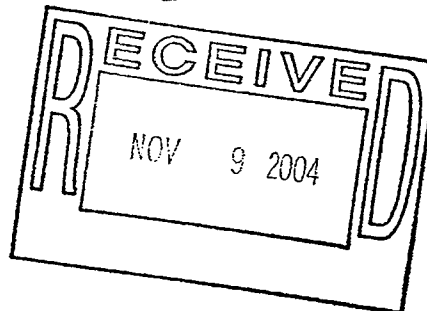
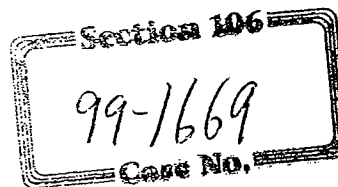
DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.
Executive Director

CARLOS M. BRACERAS, P.E.
Deputy Director

OLENE S. WALKER
Governor

GAYLE McKEACHNIE
Lieutenant Governor



September 22, 2004

Ms. Barbara Murphy, Deputy SHPO-Preservation
Division of State History
300 Rio Grande
Salt Lake City, Utah 84101-1182

RE: UDOT Project No.SP-0151(1)0: 11400 South EIS Project, Salt Lake County, Utah. Determinations of Eligibility, Finding of Adverse Effect, and Proposed Mitigation.

Dear Ms. Murphy:

The Federal Highway Administration (FHWA) and the Utah Department of Transportation, in partnership with the cities of South Jordan, Riverton, Sandy, and Draper, are considering improvements on east-west corridors in the southwest portion of the Salt Lake Valley. FHWA is serving as the lead agency for the Environmental Impact Statement (EIS) that is currently being prepared. The study area for the EIS extends from 700 East to Bangerter Highway, and from 10600/10400 South to 12300/12600 South. The purpose of the project is to maintain, protect, and improve the quality of life by improving mobility and providing transportation infrastructure to support economic development within the study area through the year 2030. Four build alternatives and the no-build alternative have been carried through the EIS for detailed analysis. The components of each of the build alternatives are presented in Table 1 and Figures 1 and 2. A Preferred Alternative will be recommended in the Final EIS.

Table 1. Summary of Improvements by Alternative

Improvement	1	3A	4	7
Widen 10400 S to six lanes from Bangerter Hwy to just west of Redwood Rd	X	X		
Widen 10600 S to six lanes from just west of Redwood Rd to Jordan Gateway	X	X		X
Widen 10600 South to six lanes from River Front Parkway to Jordan Gateway			X	
Widen 12300/12600 S to six lanes from Bangerter Hwy to Lone Peak Pkwy	X	X		
Widen 11400 S from Bangerter Hwy to State Street with a new river crossing and intersection	X		X	X

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Improvement	1	3A	4	7
improvements at 11400 S and Bangerter Hwy				
Add two-lane I-15 underpass at 11000 S	X	X		
Add two-lane I-15 overpass at 11800 S	X	X		
Modifications to I-15 interchange at 10600 S (triple left southbound to eastbound)	X	X	X	X
Widen State St to six lanes from 12300 S to 11400 S	X			
Widen Jordan Gateway/Lone Peak Pkwy to six lanes from 12300 S to 10600 S		X		X
Add a new interchange with I-15 at 11400 S			X	
Intersection improvements on Jordan Gateway/Lone Peak Pkwy at 10600 S, 11400 S, and 12300 S			X	

In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. § 470 et seq., and Utah Code Annotated (U.C.A.) § 9-8-404, the FHWA, in partnership with the Utah Department of Transportation (UDOT), is taking into account the effects of this undertaking on historic properties¹, and will afford the Advisory Council on Historic Preservation (Council) and the USHPO an opportunity to comment on the undertaking. Please review this letter and, providing you agree with the finding contained herein, sign and date the signature line at the end of this letter.

Native American consultation was initiated by sending letters requesting information on any historic properties of traditional religious and/or cultural importance and notification of interest in being a consulting party on the project. Letters were sent to the Skull Valley Band of Goshute Indians, Shoshone-Bannock Tribes, Northwestern Band of Shoshone Nation, Confederated Tribes of Goshute Nation, and the Uintah and Ouray Ute Tribes. The Shoshone-Bannock Tribes responded with a request for a copy of the survey report, as well as a copy of the EIS for comment. Although the Skull Valley Goshute Tribe did not respond in writing, they have notified FHWA that they intend to be involved in consultation for all federal projects in the valley. A copy of the archaeological report has been sent to both tribes for review. Letters requesting information and notification of concerns were sent to the Riverton Historical Society, the Draper Historic Preservation Commission, the Sandy Certified Local Government (CLG), the South Jordan Historical Society, and the Utah Heritage Foundation. Although no written responses were received, representatives from UDOT and URS (the consultant preparing the EIS) have met with representatives from each group to discuss the project, areas of concern, and possible

¹ "Historic property", for purposes of Section 106, is defined in 36 CFR § 800.16(l)(1) as a prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). Utah Code, Title 9, also affords protection to properties included in, or eligible for, the State Register (U.C.A. § 9-8-404).

mitigation measures. Copies of the reports have been sent to all groups and consultation will continue throughout the project.

An archaeological survey and a selective reconnaissance level survey of buildings were conducted for this project by URS. Two reports have been prepared and are enclosed: *11400 South EIS Project, Salt Lake County, Utah: Results of an Intensive Archaeological Survey*, by Gordon Tucker, and *11400 South EIS Project, Salt Lake County, Utah: Results of a Selective Reconnaissance Architectural Survey*, by Robert Mutaw and Christine Wiltberger. The archaeological survey included only those open areas on potential alternatives corridors that had not been previously surveyed and focused on three general areas: a large area in the Jordan River Valley, where the highway alternatives will cross; along 11400 South and 11800 South; and areas along the Jordan Gateway/Lone Peak Parkway. A total of 16 land parcels were intensively surveyed, for a total of 258.2 acres. The survey corridor for the unsurveyed areas was 100 m (300 ft) wide on both sides of the existing road. The initial selective reconnaissance survey included only those buildings in the study area that had not been previously documented. Most of the buildings in the study area that were constructed during the historic period (before 1959) have been documented during previous studies. The purpose of the current study was to document the remainder of the historic buildings that had not been previously recorded.

Initial inventories conducted for UDOT projects are generally reconnaissance level surveys, which are designed to deal with large groups of buildings, either along the project corridor or in a wider community, and might or might not be accompanied by a historic context. In accordance with the USHPO *Standard Operating Procedures for Reconnaissance Level Surveys* (1995), the "primary purpose is to provide a 'first cut' of buildings in a given area which appear to be eligible for listing in the National Register of Historic Places. Reconnaissance survey involves only a visual evaluation of properties, not an assessment of associated historical events or individuals" (USHPO 1995:1). During the reconnaissance survey, "properties identified as 'eligible' ... must meet National Register age and integrity requirements... This means they should retain most of their original appearance and be at least 50 years old" (USHPO 1995:1). The UDOT generally uses a cut-off of at least 45 years old because there is often at least five years between approval of the environmental document and the actual construction. Using this age criterion generally prevents having to conduct a re-evaluation right before construction. The "second cut" is often (but not always) completion of the intensive level survey (or ILS) as outlined in the USHPO *Standard Operating Procedures for Intensive Level Survey* (1993), whereby the property is more thoroughly researched, documented, and evaluated, and the Historic Site Form is completed. The ILS is often done as part of mitigation of adverse effects on the historic property. The enclosed report documents the results of the first-cut, reconnaissance level survey for previously undocumented buildings, and a re-evaluation of potentially impacted buildings. This re-evaluation is not an ILS, but is based on more detailed integrity criteria for eligibility that are based on the historic context of the study area. Additional consideration is given to those buildings that have been identified by the communities as having local significance.

As part of the USHPO procedures for reconnaissance surveys, additional eligibility ratings are applied to each property:

A – Eligible. Built within the historic period and retains integrity; excellent example of a style or type; unaltered or only minor alterations or additions; individually eligible for the National Register under criterion “C”; also buildings of known historical significance.

B – Eligible. Built within the historic periods and retains integrity; good example of a style or type, but not as well preserved or well executed as “A” buildings; more substantial alterations or additions than “A” buildings, though overall integrity is retained; eligible for National Register as part of a potential historic district or primarily for historical, rather than architectural, reasons (which cannot be determined at this point).

C – Ineligible. Built during the historic period but has had major alterations or additions; no longer retains integrity.

D – Out of period. Constructed outside the historic period.”

Buildings rated eligible under USHPO A or B categories may be eligible under National Register Criterion A², but B-rated historic buildings generally are eligible only as contributing properties to a historic district or as part of a Multiple Property submission. USHPO A-rated historic buildings and structures can be nominated alone under National Register Criterion C if they meet the age and integrity requirements. Under National Register Criterion C, “retention of design, workmanship, and materials will usually be more important than location, setting, feeling, and association” (Andrus 1997:48). If a property is eligible under National Register Criterion A or B, integrity of design and workmanship might not be as important.

The boundaries drawn for the eligible properties are generally defined by the tax parcel. National Register Bulletin 16A (page 56) suggests that for urban and suburban properties, the legally recorded parcel number or lot lines are appropriate when those parcels retain their historic boundaries and integrity. National Register Bulletin 21 (page 3) states “Boundaries should include surrounding land that contributes to the significance of the resources by functioning as the setting... For example, do not limit the property to the footprint of the building, but include its yard or grounds ...” Along many roads in the Salt Lake Valley, the tax parcel goes to the center of the street. Because the road and its associated features are there often by prescriptive use, the part of the private property

² National Register Criteria for Evaluation: The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and (a) that are associated with events that have made a significant contribution to the broad patterns of our history; or (b) that are associated with the lives of persons significant in our past; or (c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or (d) that have yielded, or may be likely to yield, information important in prehistory or history.

under these transportation features does not retain integrity, and the boundary is drawn behind these features, generally behind the sidewalk. The front yard of a residence represents the transitional zone between public and private use of space. Although many of the older homes in the study area were once part of larger farmsteads, these farms have been broken up and subdivided, especially post-WWII. The result is that for most of these properties, it is only the property now defined by the current tax parcel boundary that retains integrity. If there are outbuildings, landscape features, natural features, or other elements that contribute to conveying the property's significance, boundaries are drawn as appropriate so that the historic use of the property and retention of elements of integrity related to that use are included.

Three new sites and six isolated finds (IFs) were documented during the current archaeological survey (Table 2). The isolated finds include sun-colored amethyst glass shards, isolated ditch laterals, and an isolated concrete slab foundation. Undocumented segments of five previously recorded linear sites (canals) were documented as well. A total of 34 structures in the APE that had not been previously recorded were documented during the selective reconnaissance level survey (Table 2).

Site 42SL363 is a large scatter of historic artifacts spread over more than 10 acres. Artifacts include bottle glass, ceramics, metal items, bricks, and slag. No structures or features were identified. Most of the artifacts date from the 1940s and 1950s. The site was once a gravel pit that has since been reclaimed. Although the site retains most elements of integrity, it does not meet any of the criteria for eligibility for the National Register of Historic Places (NRHP). URS recommended it not eligible for the NRHP; FHWA and UDOT concur and have determined the site **not eligible**.

Site 42SL364 is a low, L-shaped concrete wall, an associated driveway, a flowerbed and a modern wooden fence. Two small headgates divert water from a concrete-lined ditch that runs on the north side of the modern fence. This feature is interpreted as the remains of a small residence, which is shown on records at the Salt Lake County Assessor's office to have been built in 1928. This site lacks integrity of all elements except location and does not meet any of the criterion for eligibility for the National Register. Archaeological deposits are not evident. URS recommended it not eligible for the NRHP; FHWA and UDOT concur and have determined the site **not eligible**.

Site 42SL365 consists of the foundations of five structures, three ditch segments, and perimeter fencing. The ditches run north to south across the site. At the northern end of one of the ditches is a concrete headgate, with "1950" inscribed on it. Although no historical records were found, the site is interpreted as a residence with outbuildings, dating to at least the 1950s. This site lacks integrity of all elements except location and does not meet any of the criterion for eligibility for the National Register. Archaeological deposits are not evident. URS recommended it not eligible for the NRHP; FHWA and UDOT concur and have determined the site **not eligible**.

Table 2. Newly Recorded Historic Structures, Archaeological Sites, and Segments of Previously Recorded Linear Sites

Address	Construction Date	Style/Type	SHPO Rating	NRHP Determination
Sandy				
43 E 11000 S	1954	WWII-Era Cottage	C	Not Eligible
45 E 11000 S	1956	WWII-Era Cottage	B	Eligible
88 E 11000 S	1946	WWII-Era Cottage	C	Not Eligible
140 E 11000 S	1950	WWII-Era Cottage with Garage	C	Not Eligible
314 E 11000 S	1925	Early 20 th Century / Other	C	Not Eligible
Draper				
11490 S 700 W	1948	WWII-Era Cottage	C	Not Eligible
11560 S 700 W	1890	Victorian/ Central Block w/Projecting Bays	B	Eligible
11580 S 700 W	c. 1930	Early 20 th Century/Bungalow	C	Not Eligible
11582 S 700 W	1918	Early 20 th Century/Bungalow	C	Not Eligible
11875 S 700 W	1955	WWII/Post-War/ Early Ranch/Rambler	C	Not Eligible
11915 S 700 W	1950	WWII-Era Cottage	C	Not Eligible
12251 S 700 W	1940	Other Residential Type	C	Not Eligible
11868 S Kimballs Way	c. 1946	WWII-Era Cottage	C	Not Eligible
Riverton				
1825 W 11800 S	1950	WWII-Era Cottage w/Garage	C	Not Eligible
2226 W 11800 S	1928	Period Cottage	C	Not Eligible
2265 W 11800 S	1954	WWII/Post-War/Other	C	Not Eligible
2285 W 11800 S	1928	Early 20 th Century/Bungalow	C	Not Eligible
2295 W 11800 S	1926	Period Cottage	C	Not Eligible
2345 W 11800 S	1923	Early 20 th Century/ Other	C	Not Eligible
2356 W 11800 S	1947	WWII/Post-War/Early Ranch/Rambler	C	Not Eligible
12012 S 3600 W	1949	WWII-Era Cottage	B	Eligible
12408 S 3600 W	c. 1940	WWII-Era Cottage	C	Not Eligible
12432 S 3600 W	c. 1940	WWII-Era Cottage	B	Eligible
12442 S 3600 W	c. 1940	WWII-Era Cottage	C	Not Eligible
11722 S 1300 W	1947	WWII/Post-War/Basement	B	Eligible
11976 S 1300 W	c. 1930	Early 20 th Century	C	Not Eligible
11980 S 1300 W	1964	Ranch/Rambler	D	Not Eligible
11981 S 1300 W	1952	WWII/Post-War/Basement	B	Eligible
South Jordan				
11977 S 3600 W	c. 1925	Early 20 th Century/Bungalow	B	Eligible
2497 W 11400 S	1954	Post-WWII Other	C	Not Eligible

Address	Construction Date	Style/Type	SHPO Rating	NRHP Determination
2555 W 11400 S	1956	WWII/Post-War/Ranch/Rambler	C	Not Eligible
3113 W 11400 S	1957	WWII/Post-War/Ranch w/Garage	B	Eligible
3414 W 11400 S	1938	Other	C	Not Eligible
11719 S 1300 W	c. 1950	WWII/Post-War/Basement	B	Eligible
Archaeological Sites				
42SL214 (Jordan and Salt Lake City Canal)	1879-1882	Canal	N/A	Eligible
42SL284 (Galena Canal)	1873	Canal	N/A	Eligible
42SL286 (Utah Lake Distributing Canal)	1908?/1931?	Canal	N/A	Eligible
42SL297 (Beckstead Ditch)	1859	Canal	N/A	Eligible
42SL307 (Utah and Salt Lake Canal)	1872, 1881	Canal	N/A	Eligible
42SL363	1940s, 1950s	Trash scatter	N/A	Not Eligible
42SL364	1928?	Concrete wall	N/A	Not Eligible
42SL365	1950s?	Foundations, ditches, and fencing	N/A	Not Eligible

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Two previously undocumented segments of the Jordan and Salt Lake City Canal (42SL214) were recorded. This site has been previously determined **eligible** for listing on the NRHP. These newly recorded segments retain all elements of integrity and contribute to the eligibility of the overall site.

One previously undocumented segment of the Galena Canal (42SL284) was recorded for the current project. Although the Galena Canal is no longer in use, it retains all elements of integrity and has been previously determined **eligible** for the NRHP. These newly recorded segments retain all elements of integrity and contribute to the eligibility of the overall site.

One previously undocumented segment of the Utah Lake Distributing Canal (42SL286) was recorded for the current project. This site has been previously determined **eligible** for listing on the NRHP. These newly recorded segments retain all elements of integrity and contribute to the eligibility of the overall site.

One previously undocumented segment of the Beckstead Ditch (42SL297) was recorded for the current project. This site has been previously determined **eligible** for listing on the NRHP. These newly recorded segments retain all elements of integrity and contribute to the eligibility of the overall site.

One previously undocumented segment of the Utah and Salt Lake Canal (42SL307) was recorded for the current project. This site has been previously determined **eligible** for listing on the NRHP. These newly recorded segments retain all elements of integrity and contribute to the eligibility of the overall site.

The selective reconnaissance level survey of the undocumented resources in the APE resulted in the documentation of a total of 34 structures that had not been previously recorded (Table 2). The structures are located throughout the APE but are concentrated on seven streets: 700 West, 1300 West, 3600 West, 1100 South, 11400 South, 11800 South, and Kimballs Way. Fifteen of the structures are located within Riverton, eight are in Draper, five are in Sandy, and six are in South Jordan. The oldest structure was built in 1890, while the most recent is dated 1964. The majority of the structures date from the 1940s and 1950s and are Minimal Traditional and Ranch styles, but Victorian forms, Bungalows, and other styles are represented as well. URS has made recommendations on National Register eligibility. FHWA and UDOT, in consultation with your office (meeting August 26, 2004), have made determinations that often differ from those made by URS; Table 2 reflects the final determinations. Nine structures have been determined **eligible** for the NRHP, 24 have been determined **not eligible**, and 1 is **out-of-period** (post-1959).

Of the 34 newly recorded structures, only 4 structures are within the roadway corridors that are included in the proposed alternatives that are being carried forward in the EIS. However, 43 of the previously recorded historic properties (2 properties have 2 in-period structures and the Fairbourn Farmsteads Historic District is considered 1 historic

property even though it comprises a number of structures) are located within the area of the proposed alternatives for the current project. All 47 properties were re-evaluated for eligibility, using criteria for both residential and commercial structures that were developed for the registration requirements for Multiple Property Submissions for three of the four cities in the 11400 South study area. Each of the properties was compared to the registration requirements and assessed as to whether it met the requirements or not.

Again, URS has made recommendations on National Register eligibility. FHWA and UDOT, in consultation with your office (meeting August 26, 2004), have made determinations that often differ from those made by URS; Table 3 and Appendix H in the architectural survey report reflect the final determinations. Thirty-seven of the re-evaluated properties and the Fairbourn Historic District have been determined **eligible**, and 9 have been determined **not eligible** for the NRHP. Table 3 also lists the eligible linear archaeological sites that are within the area of the proposed alternatives (n=7). For those properties determined eligible, the historic boundaries have been defined, based on the criteria outlined above.

The Fairbourn Farmsteads Historic District includes numerous residences and a variety of outbuildings and cultural features that comprise the Fairbourn family farm complex. This district has been determined eligible, with SHPO concurrence obtained in January, 2004 (letter from UDOT dated December 17, 2003). The properties that make up this district include the parcel at 175 W 11400 S, the parcel at 170 W 11400 S, the parcel at 180 W 11400 S, and the parcel at 260 W 11400 S. This district provides historical data on the evolution of a complex of family farms that individually and collectively reflect the struggles and successes of an agrarian lifestyle dating from the 1880s to the present. The areas of significance of the Fairbourn Farmsteads Historic District include: A, Agriculture; B, Association with William Fairbourn; and C, Architecture and Land-Use Patterns. The period of significance is 1883 to 1954.

Effect is defined in 36 CFR Part 800.16(i) as "alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register". An adverse effect is found "when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association" [36 CFR Part 800.5(a)(1)]. A finding of no adverse effect is made "when the undertaking's effects do not meet the criteria of paragraph (a)(1) of this section" [36 CFR Part 800.5(a)(3)(b)].

In consultation with the Utah SHPO, the following criteria were used to evaluate effects of the project on historic properties: 1) No Effect – The impacts from the alternative do not encroach on any part of the boundary defined for the historic property; 2) No Adverse Effect – The impacts from the build alternative are within the boundary of the historic property, but do not result in the alteration of the characteristics that qualify it for listing on the National Register in a manner that would diminish any of the relevant aspects of integrity. In general, a no adverse effect is found when a strip of land from the parcel is

Table 3. Re-Evaluated Properties on Alternatives Corridors

Address	Year Built	Style/Type	NRHP Eligibility Determination	Historic Boundary
Draper				
437 W 11400 S (aka 455 W 11400 S)	1923	Early 20 th Century/Bungalow	Eligible	Parcel
191 W 12300 S	1954	Post WWII/Other Residential Type	Eligible	Parcel
274 W 12300 S	1899	Early 20 th Century/Other Residential Type	Eligible	Parcel
390 W 12300 S	1910	20 th Century Vernacular/Single Cell	Eligible	Parcel
611 W 12300 S	1949	Post War Other	Eligible	Building
675 W 12300 S	1938	Minimal Traditional/WWII-Era Cottage	Eligible	Parcel
681 W 12300 S	1938	WWII Other	Eligible	Parcel
692 W 12300 S (aka 691 W 12300 S)	1920	Early 20 th Century Other	Eligible	Parcel
736 W 12300 S	1950	Post-War Ranch	Eligible	Parcel
11450 S State (aka 11440 S State)	1900	Victorian Eclectic/Central Block with Projecting Bays	Eligible	Building
11613 S State	1910	Victorian Eclectic/Central Block with Projecting Bays	Eligible	Building, Front Yard, Outbuildings
11687 S State	1950	Post-War Other	Eligible	Parcel
11550 S 260 W	1910	Classical/Hall Parlor	Eligible	Parcel
11450 S 800 W (aka 11450 S 700 W)	1920	Early 20 th Century/Bungalow	Eligible	Parcel
Riverton				
1396 W 12600 S	1916	Early 20 th Century/Other	Eligible	Parcel
1512 W 12600 S	1955	Post War Early Ranch	Eligible	Parcel
1526 W 12600 S	1949	Minimal Traditional/WWII-Era Cottage	Eligible	Parcel
1604 W 12600 S	1. 1905 2. 1939	1. Victorian Eclectic/Central Block with Projecting Bays 2. WWII Other	1. Eligible 2. Not Eligible	Parcel
2284 W 12600 S	1934	WWII Other	Not Eligible	Not Applicable
2314 W 12600 S	1939	WWII/Basement House	Eligible	Parcel

Address	Year Built	Style/Type	NRHP Eligibility Determination	Historic Boundary
2395 W 12600 S (aka 2295 W 12600 S)	1954	Post-War Early Ranch	Eligible	Parcel
2431 W 12600 S	c. 1940	Minimal Traditional/WWII-Era Cottage	Eligible	Parcel
2435 W 12600 S	1907	Early 20 th Century Other/Foursquare	Not Eligible	Not Applicable
2487 W 12600 S	1941	Minimal Traditional/WWII-Era Cottage	Eligible	Parcel
2630 W 12600 S	1950	Minimal Traditional/WWII-Era Cottage	Eligible	Parcel
2767 W 12600 S	1938	Minimal Traditional/WWII-Era Cottage	Not Eligible	Not Applicable
2779 W 12600 S	1935	WWII/Post-War Other/One-Part Block Commercial	Eligible	Parcel
2797 W 12600 S	1936	Minimal Traditional/WWII-Era Cottage	Not Eligible	Not Applicable
12653 S 3600 W	1950	Post-War Early Ranch	Eligible	Parcel
South Jordan				
1350 South Jordan Parkway	1929	Art Deco School Auditorium	Eligible	Building footprint
1327 W 11400 S (aka 1323 W 11400 S)	1920	Early 20 th Century/Bungalow	Eligible	Parcel
1402 W 10400 S	1910	Victorian Eclectic/Crosswing	Eligible	Parcel
1432 W 10400 S	1928	Early 20 th Century/Foursquare	Not Eligible	Not Applicable
1476 W 10400 S	1904	Victorian Eclectic/Double Crosswing	Eligible	Parcel
1547 W 10400 S	1904	Victorian Eclectic/Crosswing	Not Eligible	Not Applicable
1836 W 10400 S	1926	Early 20 th Century/Bungalow	Eligible	Parcel
434 W 11400 S	1880	Victorian Eclectic/Crosswing	Eligible	Parcel
2497 W 11400 S	1954	Post War/Other	Not Eligible	Not Applicable
2555 W 11400 S	1956	Post War/Ranch/Rambler	Not Eligible	Not Applicable
3113 W 11400 S	1957	Post War/Ranch/Rambler	Eligible	Parcel

Address	Year Built	Style/Type	NRHP Eligibility Determination	Historic Boundary
3244 W 11400 S	1941	WWII-Era Cottage	Eligible	Parcel
3414 W 11400 S	1938	WWII/Other Residential	Not Eligible	Not Applicable
11386 S 1300 W	1947	Post-War Early Ranch	Eligible	Parcel
11407 S 1300 W	1901	Victorian Eclectic/Other	Eligible	Parcel
11395 S Redwood (aka 11389 & 11367 S Redwood, 11367 & 11369 S 1700 W)	1.1915	1.Early 20 th Century/Bungalow	1.Eligible	Parcel
	2.1950	2.Post-War Early Ranch	2.Eligible	
11323 S 2700 W	1958	Post-War Ranch	Eligible	Parcel
South Jordan and Draper				
175-260 W 11400 S (Fairbourn Historic District)	1921-1940	Multiple Houses with Different Styles and Types	Eligible	District
Linear Archaeological Sites				
42SL214 (Jordan and Salt Lake City Canal)	1879-1882	Canal	Eligible	Canal Footprint
42SL284 (Galena Canal)	1873	Canal	Eligible	Canal Footprint
42SL286 (Utah Lake Distributing Canal)	1908?/1931?	Canal	Eligible	Canal Footprint
42SL291 (South Jordan Canal)	1875	Canal	Eligible	Canal Footprint
42SL293 (Denver & Rio Grande Western Railway [now UPRR])		Railroad	Eligible	Railroad and Associated Features
42SL297 (Beckstead Ditch)	1859	Canal	Eligible	Canal Footprint
42SL307 (Utah and Salt Lake Canal)	1872, 1881	Canal	Eligible	Canal Footprint

impacted (strip take); 3) Adverse Effect – The impacts from the build alternative are within the boundary of the historic property, and results in the alteration of the characteristics that qualify it for the NRHP in a manner that diminishes the integrity of the property. In general, an adverse effect is found when the direct or indirect impacts result in demolition or acquisition of the primary structure (parcel take), but an adverse effect can be found with other cases.

Table 4 presents the effects on each historic property (n=59; effects on each segment of linear sites are counted as 1) from each build alternative that is being carried forward in the EIS, based on the definition of effects described above. The totals are presented in Table 5, below.

Table 5. Effects on Historic Properties from Each Build Alternative

Effect	Alternative 1	Alternative 3A	Alternative 4	Alternative 7
No Effect	27	42	41	36
No Adverse Effect	26	14	15	20
Adverse Effect	6	3	3	3

A Section 4(f) evaluation is being prepared as part of the EIS. Section 4(f) of the DOT Act of 1966 states that “(a)(1) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl, or any significant historic site unless a determination is made that:

- (i) there is no feasible and prudent alternative to the use of land from the property; and
- (ii) the action includes all possible planning to minimize harm to the property resulting from such use” (23 CFR §771.135).

Section 4(f) requirements apply only to sites on or eligible for the National Register. For archaeological sites, Section 4(f) does not apply on those resources that are important chiefly because of what can be learned by data recovery and have minimal value for preservation in place.

Forty-five historic properties have been identified along corridors included in the proposed build alternatives. Based on the description of the boundaries of each historic property, and based on the definitions of effects as described above, there is a use of a historic property only when there is a finding of no adverse effect or an adverse effect. Both findings result when land is permanently incorporated into the transportation facility. Any temporary occupancy of the historic property is expected to meet the conditions of 23 CFR §771.135(p)(7), and no constructive use as defined in 23 CFR §771.135(p)(4) is anticipated to occur. Although effect was determined for each crossing of a linear resource, use is evaluated as it relates to the entire resource (or historic property).

Table 4. Historic Property Effects by Alternative

Address or Other Location	Alternative 1	Alternative 3A	Alternative 4	Alternative 7
Draper				
455 West 11400 South (aka 437 West 11400 South)	No Effect	No Effect	No Effect	No Effect
191 West 12300 South	Adverse Effect	Adverse Effect	No Effect	No Effect
274 West 12300 South (aka 270 West 12300 South)	No Effect	No Effect	No Effect	No Effect
390 West 12300 South (aka 438 West)	No Effect	No Effect	No Effect	No Effect
611 West 12300 South	No Effect	No Effect	No Effect	No Effect
675 West 12300 South	No Effect	No Effect	No Effect	No Effect
681 West 12300 South	No Effect	No Effect	No Effect	No Effect
692 West 12300 South (aka 691 West 12300 South)	No Effect	No Effect	No Effect	No Effect
736 West 12300 South	Adverse Effect	Adverse Effect	No Effect	No Effect
11450 South State Street (aka 11440 South State Street)	No Effect	No Effect	No Effect	No Effect
11613 South State Street	No Adverse Effect	No Effect	No Effect	No Effect
11687 South State Street	No Adverse Effect	No Effect	No Effect	No Effect
11550 South 260 West	No Effect	No Effect	No Effect	No Effect
11450 South 800 West (aka 11450 South 700 West)	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
Riverton				
1396 West 12600 South**	No Effect	No Effect	No Effect	No Effect
1512 West 12600 South	No Effect	No Effect	No Effect	No Effect
1526 West 12600 South	No Effect	No Effect	No Effect	No Effect
1604 West 12600 South	No Effect	No Effect	No Effect	No Effect
2314 West 12600 South	No Effect	No Effect	No Effect	No Effect
2395 West 12600 South (aka 2295 West 12600 South)	No Effect	No Effect	No Effect	No Effect
2431 West 12600 South	No Effect	No Effect	No Effect	No Effect
2487 West 12600 South	No Effect	No Effect	No Effect	No Effect
2630 West 12600 South	No Effect	No Effect	No Effect	No Effect
2779 West 12600 South	Adverse Effect	Adverse Effect	No Effect	No Effect
12653 South 3600 West	No Effect	No Effect	No Effect	No Effect
South Jordan				
1350 West South Jordan Parkway*	No Effect	No Effect	No Effect	No Effect
1327 West 11400 South (aka 1323	No Adverse	No Effect	No Adverse	No Adverse

Address or Other Location	Alternative 1	Alternative 3A	Alternative 4	Alternative 7
West 11400 South)*	Effect		Effect	Effect
1402 West 10400 South	No Effect	No Effect	No Effect	No Effect
1476 West 10400 South	No Adverse Effect	No Adverse Effect	No Effect	No Adverse Effect
1836 West 10400 South	No Effect	No Effect	No Effect	No Effect
434 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
3113 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
3244 West 11400 South	No Effect	No Effect	No Effect	No Effect
11386 South 1300 West	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
11407 South 1300 West*	Adverse Effect	No Effect	Adverse Effect	Adverse Effect
11395 South Redwood Road (aka 11389 South and 11367 South)*	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
11323 South 2700 West	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
South Jordan and Draper				
170-260 West 11400 South (Fairbourn Historic District)	Adverse Effect (Historic District)	No Adverse Effect (Historic District)	Adverse Effect (Historic District)	Adverse Effect (Historic District)
Jordan and Salt Lake City Canal				
Bridge at c. 200 West 11400 South	Adverse Effect	No Effect	Adverse Effect	Adverse Effect
c. 200 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
c. 11350 South at I-15	No Effect	No Effect	No Adverse Effect	No Effect
c. 11500 South Lone Peak Parkway	No Effect	No Adverse Effect	No Effect	No Adverse Effect
c. 12100 South Lone Peak Parkway	No Effect	No Adverse Effect	No Effect	No Adverse Effect
c. 100 West 12300 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect
Galena Canal				
c. 1000 West 12300 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect
c. 900 West 11400 South	No Adverse Effect (New Crossing)	No Effect	No Adverse Effect (New Crossing)	No Adverse Effect (New Crossing)
Utah Lake Distributing Canal				
c. 3300 West 12600 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect

Address or Other Location	Alternative 1	Alternative 3A	Alternative 4	Alternative 7
c. 3100 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
c. 2700 West 10400 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect
South Jordan Canal				
c. 1500 West 12600 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect
c. 1500 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
c. 1100 West 10400 South	No Adverse Effect	No Adverse Effect	No Effect	No Adverse Effect
Denver & Rio Grande Western Railway (UPRR)				
10850 South Jordan Gateway	No Effect	No Adverse Effect	No Effect	No Adverse Effect
380 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
450 West 12300 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect
Beckstead Ditch				
c. 1000 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
Utah and Salt Lake Canal				
c. 2200 West 12600 South	No Adverse Effect	No Adverse Effect	No Effect	No Effect
c. 2200 West 11400 South	No Adverse Effect	No Effect	No Adverse Effect	No Adverse Effect
c. 1800 West 10400 South	No Adverse Effect	No Adverse Effect	No Effect	No Adverse Effect

* - This property has been identified by South Jordan City as an important cultural landmark for their community

** - This property has been identified by Riverton City as an important cultural landmark for their community

c. = circa (approximate address)

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In summary, 3 new archaeological sites and 6 isolated finds (IFs) were documented during the current archaeological survey. Undocumented segments of 5 previously recorded linear sites (canals) were documented as well. A total of 34 structures in the APE that had not been previously recorded were documented during the selective reconnaissance level survey. Nine structures have been determined **eligible** for the NRHP, 24 have been determined **not eligible**, and 1 is **out-of-period** (post-1959). The 3 new archaeological sites and 6 IFs have been determined not eligible for the NRHP. The canal segments are all parts of sites previously determined eligible.

Fifty previously recorded historic properties (2 properties have 2 in-period structures and the Fairbourn Farmsteads Historic District is considered 1 historic property even though it comprises a number of structures) and 4 newly recorded structures are located within the area of the proposed alternatives for the current project. All 54 properties were re-evaluated for eligibility with the following final determinations: 45 properties determined eligible, 9 determined not eligible.

The overall finding of effect by the project on historic properties is adverse. The effect on each historic property from each alternative carried forward in the EIS is shown on Table 4 and the totals for each alternative are shown in Table 5.

Pursuant to 36 CFR §800.6, the FHWA and the UDOT will take measures to resolve adverse effects. Consultation will continue with the SHPO and other consulting parties, the Council will be notified of the adverse effect finding, the public will be notified and provided an opportunity to express their views on resolving adverse effects, and a memorandum of agreement (MOA) will be executed. The FHWA and the UDOT will continue working with SHPO, the Riverton Historical Society, the South Jordan Historical Society, Sandy CLG, and the Draper Historic Preservation Commission to develop further measures to avoid, minimize, or mitigate adverse effects on historic properties. Mitigation measures will make efforts to be compatible with the cities' historic preservation goals, be meaningful to the community, and provide benefits that are an asset to the community. The MOA will also include stipulations for planning for discovery and monitoring, review of implementation, and measures for dispute resolution, and include provisions specific to the Utah Native American Grave Protection and Repatriation Act (UNAGPRA). Stipulations of the MOA will reflect the consultation process between the participating agencies and consulting parties.

Please feel free to call me at (801) 975-4923 or email me at eskinner@utah.gov if you have any questions or need additional information.

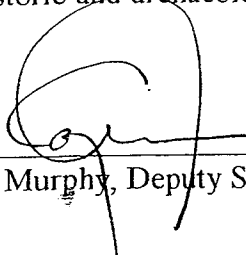
Sincerely,



Betsy Skinner
Regional NEPA/NHPA Specialist

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I concur with the determinations of eligibility, finding of adverse effects, and proposed mitigation measures for UDOT Project No. SP-0151(1)0: 11400 South EIS Project, Salt Lake County, Utah; and that the UDOT has taken into account effects of the undertaking upon historic and archaeological resources in accordance with Section 106 and U.C.A. 9-8-404.


for Barbara Murphy, Deputy SHPO-Preservation

10/28/04
Date



Preserving America's Heritage

October 21, 2004

Jeffrey Berna
Federal Highway Administration
2520 West 4700 South, Ste. 9A
Salt Lake City, UT 84118-1847

REF: *11400 South EIS Project, Salt Lake County, UT – SP-0151(1)0.*

Dear Mr. Berna:

We received your notification and supporting documentation regarding the adverse effects of the referenced project on a property or properties eligible for inclusion in the National Register of Historic Places. Based upon the information you provided, we do not believe that our participation in consultation to resolve adverse effects is needed. However, should circumstances change, please notify us so we can re-evaluate if our participation is required. Pursuant to 36 CFR 800.6(b)(iv), you will need to file the Memorandum of Agreement, and related documentation at the conclusion of the consultation process. The filing of this Agreement with the ACHP is necessary to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions, please contact Carol Legard at 969-5110 or via eMail clegard@achp.gov.

Sincerely,

Nancy Kochan
Office Administrator/Technician
Western Office of Federal
Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

12136 West Bayaud Avenue, Suite 330 • Lakewood, Colorado 80228
Phone: 303-969-5110 • Fax: 303-969-5115 • achp@achp.gov • www.achp.gov

**MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION,
AND
THE UTAH STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE UDOT PROJECT *SP-15-7(156)293: 11400 South EIS Project, Salt Lake County, Utah**

WHEREAS, the Federal Highway Administration (FHWA), Utah Division, has determined that the Preferred Alternative for UDOT Project *SP-15-7(156)293: 11400 South EIS Project, Salt Lake County, Utah (hereafter referred to as the Project), will have adverse effects on three historic properties (11407 South 1300 West in South Jordan, the Fairbourn Historic District (175-260 West 11400 South) in South Jordan and Draper, and the bridge over the Jordan and Salt Lake City Canal (approximately 200 West 11400 South in South Jordan and Draper) that are eligible for inclusion in the National Register of Historic Places (NRHP), and has consulted with the Utah State Historic Preservation Officer (SHPO) in accordance with 36 CFR Part 800.6(b)(1), regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. §470 *et seq.*) to resolve the adverse effects; and

WHEREAS, the Utah Department of Transportation (UDOT) is the agency coordinating this project on behalf of the FHWA and has participated in the consultation, the FHWA has invited them to sign this Memorandum of Agreement (MOA) pursuant to 36 CFR 800.6(c)(2) as an invited signatory; and

WHEREAS, the Cities of South Jordan and Draper have participated in the technical coordination and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(2) as invited signatories; and

WHEREAS, the South Jordan Certified Local Government (South Jordan Historical Society), and the Draper Certified Local Government (Draper Historic Preservation Commission) (collectively the CLGs) have participated in the technical coordination and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(2) as concurring parties; and

WHEREAS, the Northwestern Band of Shoshone Nation, Idaho and Utah; the Ute Indian Tribe of the Uintah-Ouray, Utah; the Confederated Tribes of the Goshute (Ibapah), Utah; the Skull Valley Band of Goshute Indians, Utah; and the Shoshone-Bannock Tribes, Idaho (hereafter called Tribes) were invited to participate in the technical coordination and consultation, only the Shoshone-Bannock Tribes and the Skull Valley Band of Goshute Indians have chosen to participate and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(3) as concurring parties; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination, with specified documentation, and the Council has chosen not to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii); and

WHEREAS, the parties to this MOA have considered the applicable requirements of the Utah Native American Graves Protection and Repatriation Act of 1992 (Utah NAGPRA)(U.C.A. 9-9-401, *et seq.*, and its implementing Rule R230-1), the Utah Code 76-9-704; and the Federal Native American Graves Protection and Repatriation Act of 1992 (if applicable), in the course of consultation;

NOW, THEREFORE, the FHWA and the Utah SHPO agree that upon FHWA's decision to proceed with the undertaking, FHWA shall ensure that the following stipulations are implemented in order to take into account the effects of the undertaking on historic properties, and the stipulations shall govern the undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

The FHWA shall ensure that the following stipulations are carried out:

1 FULL INTENSIVE LEVEL SURVEY (ILS)

- 1.1 Intensive Level Surveys have been completed for some of the properties in the Fairbourn Historic District. Additional research has been conducted since then on the Fairbourn Historic District. The ILS for this property will be updated to incorporate the results of this research as well as any additional information obtained since the original ILS was completed. An ILS has been completed for the bridge over the Jordan and Salt Lake City Canal. If needed, this ILS will be updated. An ILS will be completed for the property at 11407 South 1300 West.
- 1.2 Photographs are required of all buildings or structures on the property. An adequate number of professional quality black-and-white photographs (3x5 prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), streetscapes, all outbuildings, detailed photographs of all areas to be impacted by the adverse effect, and photographs of exterior architectural trim/decorations, shall be submitted. Photographs shall be numbered and labeled with address (street and city) and date photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archivally stable protective storage pages.
- 1.3 Sketch floor plans of all eligible buildings shall be submitted. The plans must be based on an accurate footprint (e.g., Sanborn maps, tax card drawings, or measurements taken on site) and show all existing construction. Rooms shall be labeled by use. These non-measured drawings are to be on 8.5x11 or 11x17 sheets. A site sketch plan showing subject buildings and all outbuildings is also required.
- 1.4 A legible photocopy of the entire historic tax card of the property and a 5x7 black-and-white print and negative of the historic tax card photo (if available) shall be submitted. Label and submit print and negative as described above. Other research shall be conducted as necessary to obtain complete information on the property; sources include the title abstracts, Sanborn maps, building permits, architects' file, city directories, family histories, and others.
- 1.5 All materials shall be submitted to the Utah Division of State History, Preservation Section, to be placed on file.

2 MARKETING

- 2.1 The UDOT, in consultation with the SHPO, will assess the current condition of the adversely affected properties and determine their marketability.
- 2.2 The UDOT, in consultation with the SHPO, shall ensure that a plan is prepared for marketing the adversely affected properties for relocation. The UDOT shall ensure that the marketing plan includes the following elements:
 - 2.2.1 An information package about the property, including but not limited to:
 - Photographs of the property;
 - A parcel map;
 - Information on the property's historic significance;
 - Information on the property's cost (minimal or donated);
 - Information on UDOT assistance for the cost of relocation, up to the estimated cost of demolition;

- Information on Federal and Utah State tax benefits for rehabilitation of historic structures;
- Notification that preference will be given to interested parties who agree to rehabilitate and/or maintain the property in accordance with the recommended approaches in the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Properties* (U.S. Department of the Interior, National Park Service 1992) and preserve it in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR 68);
- 2.2.2 A distribution list of potential purchasers or transferees;
- 2.2.3 An advertising plan and schedule; and
- 2.2.4 A schedule for receiving and reviewing offers.
- 2.3 Upon the SHPO's agreement with the marketing plan, or after resolution of any disagreement in accordance with Stipulation 8.6, the UDOT shall implement the plan.
- 2.4 The UDOT shall review all offers in consultation with the SHPO, and subject to subparagraph 2.5 below, the UDOT shall select one that meets the following requirements:
 - 2.4.1 The offer provides for rehabilitation and maintenance of the property as stipulated in the marketing package; and
 - 2.4.2 The offerer has the financial and technical ability to carry out the terms of the offer; and
 - 2.4.3 The offerer agrees to accept transfer of the property with deed restrictions.
- 2.5 If the UDOT receives no offer that it determines conforms to the requirement of subparagraph 2.4 above, the UDOT in consultation with the SHPO may modify the requirements and re-offer the property, or may demolish the property. Should the SHPO not agree with the UDOT's decision regarding the property, the parties shall seek to resolve the disagreement pursuant to Stipulation 8.6.
- 2.6 The UDOT will take appropriate measures to protect the property between the time the property is vacated and the time it is either relocated or demolished. These measures may include, but are not limited to, fencing, boarding windows and doors, signage, alarm systems, increased police patrols, and security guards.

3 SALVAGE OF MATERIALS

- 3.1 If a structure is to be demolished, and after the property has been documented in accordance with Stipulation 1 above, the UDOT shall ensure that the CLG with jurisdiction over the property in question is afforded at least 30 days before demolition to select doors, windows, wall sconces, wainscoting, and other architectural elements for reuse. The UDOT shall provide the CLG with jurisdiction over the property in question access to the property to select such items. If major structural elements (e.g., bricks) cannot be removed prior to demolition, but will be removed by the contractor during demolition, the UDOT will coordinate with the contractor to have these elements removed in a manner that minimizes damage and that can be recovered by the CLG with jurisdiction over the property in question.
- 3.2 UDOT and the CLGs are both governmental entities subject to the Governmental Immunity Act, Title 63, Chapter 30, Utah Code Annotated. The CLGs agree to indemnify UDOT and FHWA, its officers, employees, and agents and hold them harmless from and against any claims alleged to be the result of, or to have arisen out of, the salvage of materials. Nothing in this paragraph is intended to create additional rights to third parties or to waive any governmental immunity under federal or state law.

4 FINANCIAL COMPENSATION

- 4.1 If the UDOT, in consultation with SHPO, determines that marketing and relocating the adversely affected structures is not structurally feasible and/or financially reasonable, the UDOT may provide for "compensatory mitigation", whereby a project that promotes historic

preservation will be funded, partially or wholly, to “compensate” for the adverse effects of the undertaking on historic properties in South Jordan and Draper as a result of construction of the 11400 South EIS preferred alternative.

- 4.2 The total amount of potential compensatory mitigation funds is \$20,000. In the event of compensatory mitigation, a maximum of \$15,000 can be devoted to a project within South Jordan, and a maximum of \$5,000 can be devoted to a project within Draper. These funds are to be used for a historic preservation project that promotes, or provides for, preservation of historic structures and will include only those types of projects eligible for federal grants.

4.2.1 Draper has identified the Park School Building, located at 12400 South 900 East, as a priority project. They propose to use the funds to help conduct a structural engineering analysis to determine the feasibility of rehabilitation and to make recommendations on specific work items.

4.2.2 South Jordan has identified restoration of the LDS ward church, located at 10353 South 1300 West and currently in private ownership, as a priority project. This project may or may not qualify, depending on ownership at the time of the application by the City to the Division. If it does not, the appropriate parties to this agreement will work towards identifying another project.

4.2.2.1 South Jordan may be required to perform an assessment of the LDS ward church (or other project to be determined) to determine the feasibility of rehabilitation and to make recommendations on specific work items and priorities. The assessment must be done by a qualified preservation architect.

4.2.3 In the event of compensatory mitigation, the funds will be deposited by UDOT with the Division of State History, Preservation Section, (“Division”) who will administer them as a reimbursable grant, with the possibility of minor administrative costs. The cities will be notified when the funds have been deposited with the Division, and they will enter into a contract with the Division.

4.2.4 Upon approval by the Division of the preservation project, the preservation project may proceed.

4.2.4.1 The project must be completed within two years of approval of the contract.

4.2.4.2 All work will be done in accordance with the recommended approaches in the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Properties* (U.S. Department of the Interior, National Park Service 1992).

4.2.4.3 A commitment to preserve the LDS ward church building for at least five years after expenditure of the funds will be required from South Jordan.

4.2.5 Upon completion of the project, or the expenditure of the funds, each city can apply to the Division for reimbursement. The funds will be released to the city within 60 days.

4.2.6 The Division of State History, Preservation Section, will provide summary reports regarding the use of the funds to UDOT at the end of each fiscal year that will be included in UDOT's annual report on the status of the terms of this agreement. Upon completion of the preservation project (or the expenditure of the funds, whichever comes first), the Division of State History will provide UDOT with a final summary of the expenditures and a description of the project accomplishments.

5 ARCHAEOLOGICAL MONITORING

- 5.1 An archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR 61) will monitor ground-disturbing activities in specific areas of potential archaeological sensitivity. These areas will be identified in the monitoring plan, as discussed in Stipulation 5.4.
- 5.2 At a minimum, such monitoring will include recording and reporting of major features or artifact concentrations uncovered, and recovery/curation of a sample of remains uncovered where practicable.
- 5.3 Human remains will be treated as specified in Stipulation 7, below.
- 5.4 A monitoring plan will be developed and approved by FHWA and UDOT, in consultation with SHPO, and the tribal concurring parties to this agreement before advertisement for construction of any portion of the preferred alternative.
 - 5.4.1 The monitoring plan will identify, at a minimum, where archaeological monitoring will be required and how monitoring will be conducted, and will include Stipulations 6 and 7 of this MOA.
 - 5.4.2 Limited testing in specific area of archaeological sensitivity may be required to obtain enough information to develop the monitoring plan.

6 INADVERTENT DISCOVERY OF CULTURAL RESOURCES

The FHWA and the UDOT have developed a plan of action for consultation with the Tribes and the SHPO regarding inadvertent discovery of previously undiscovered cultural resources potentially eligible to the NRHP.

In the event that cultural resources are discovered:

- 6.1 *Cease Activity:* Work will stop in the immediate area of the discovery in accordance with UDOT Standard Specification 01355, Part 1.10 as detailed in Attachment A. The UDOT will notify the SHPO and FHWA. The FHWA will subsequently notify the Council and Tribes (if applicable). If human remains are encountered, the contractor will follow procedures detailed in Stipulation 7 below.
- 6.2 *Evaluate Resource:* The UDOT will coordinate with the Contractor to have a qualified archaeologist evaluate the resource for NRHP eligibility. The designated archaeologist will prepare draft inventory reports and recommendations regarding the NRHP eligibility of identified properties. The content and scope of the draft and final report(s) on the results of the evaluation studies will follow guidelines as found in the UDOT's *Guidelines for Archaeological Survey and Testing*.
- 6.3 *Determine Eligibility:* In consultation with the SHPO, the UDOT will apply the NRHP criteria (36 CFR 60.4) to all cultural resources discovered during the Project and associated construction activities to evaluate potential for inclusion in the NRHP. This evaluation shall take into account the guidance found in all applicable National Register Bulletins.
- 6.4 *Assessment of Effects:* In situations affecting, or with the potential to affect, historic properties, the UDOT will apply the criteria of effect and adverse effect as defined in 36 CFR 800.5. A Determination of Eligibility and Finding of Effect (DOE/FOE) will be submitted to the SHPO and to the parties to this agreement, along with appropriate documents generated as a result of the inadvertent discovery.
- 6.5 *Treating Effects:* If construction of the Project might affect historic properties, the UDOT will develop site specific treatment plans to minimize or mitigate the effects of the historic properties located within the area of the discovery in coordination with the SHPO, and the other parties to this agreement (if applicable) as follows:
 - 6.5.1 Human remains and the associated cultural items will be treated in accordance

- with the Utah NAGPRA (See Stipulation 7 of this MOA).
- 6.5.2 Avoiding impact to historic properties is preferred to mitigation. Redesign will be implemented when technically, economically, and environmentally feasible and prudent, to avoid constructing the Project or related construction activities in a manner that may affect historic properties.
- 6.5.3 If the historic property cannot be avoided, data recovery will be undertaken.
- 6.5.3.1 The FHWA shall ensure that a data recovery plan is developed by UDOT in consultation with the SHPO, the Tribes (if applicable), and consulting parties for the recovery of archeological data. The plan shall be consistent with the *Secretary of the Interior's Standards and Guidelines for Archeological Documentation* (48 FR 44734-37) and take into account the Council's publication, *Treatment of Archeological Properties* (Advisory Council on Historic Preservation, 1980), subject to any pertinent revisions the Council may make in the publication prior to completion of the data recovery plan and to relevant SHPO or other guidance.
- 6.5.3.2 The data recovery plan shall be submitted by the UDOT to the SHPO, and to the other parties to this agreement (if applicable), for a 15-day review. Unless these parties object within 15 days after receipt of the plan, the FHWA through the UDOT shall ensure that the data recovery plan is implemented.
- 6.6 *Cultural material (artifact) curation.* Upon discovery and gathering of cultural items within the Project APE, exclusive of items covered by Utah NAGPRA as defined by that act, the UDOT will ensure that the items will be placed in an appropriate repository facility as described in 36 CFR 79.
- 6.7 *Report and documentation curation.* Upon the UDOT finalizing the documentation of the discovery, all reports and documentation will accompany the cultural material consistent with the provisions described in 36 CFR 79. Upon written request of the Tribes, a copy of said documentation shall be provided for the tribal archives.
- 7 PROJECT SPECIFIC PROCEDURES FOR IMPLEMENTING UTAH NAGPRA (U.C.A. 9-9-401 et. seq. AND ITS IMPLEMENTING RULE R230-1 AND UTAH CODE 76-9-704)**
- 7.1 Purpose*
- 7.1.1 The Parties to the MOA intend to respect and be sensitive to the cultural perspectives and responsibilities, the religious and ceremonial rights, and sacred practices of the Tribes in fulfilling tribal interests in the discovery of human remains and related items as defined by Utah NAGPRA during the Project.
- 7.1.2 If circumstances warrant and a determination is made by FHWA that federal NAGPRA applies to a discovery case during construction, then FHWA will ensure that all applicable federal procedures and requirements are met.
- 7.2 Objectives*
- 7.2.1 To implement the legislative provisions of Utah law, specifically U.C.A. 76-9-704 and 9-9-401 et. seq. within the intent of such legislation.
- 7.2.2 To implement legal requirements associated with the discovery during Project construction, while respecting and maintaining the dignity of the individual and related cultural items, and in conjunction with the best interest of the Tribes.
- 7.2.3 To facilitate UDOT compliance with Utah NAGPRA and its implementing regulations, regarding curation, disposition, re-interment,

data recovery, consultation and notification, and treatment of human remains and cultural items.

- 7.2.4 To provide guidance for construction personnel regarding the discovery and notification process upon location of human remains and cultural items as defined by Utah NAGPRA.

7.3 *Implementation of Objectives*

- 7.3.1 The UDOT will provide the contractor and UDOT Resident Engineer (RE) with a set of procedures to be followed in the event of an inadvertent discovery of human remains.
- 7.3.2 Upon discovery of potential human remains (including cultural items as defined by Utah NAGPRA), construction activities within the immediate area of discovery shall cease, the site will be secured, and local law enforcement, Division of Indian Affairs (DIA) and SHPO Antiquities Section notified as required by U.C.A. 9-9-403, Utah Administrative Rule R230-1 *et seq.* and U.C.A. 76-9-704. In addition, Tribes desiring to be notified at this time will be included on the contact list.
- 7.3.3 If the site is determined not to contain Native American remains, the UDOT will contact the FHWA, and the FHWA will notify the Tribes of such determination. Work will resume at the direction of the UDOT archaeologist.
- 7.3.4 If the site is determined to contain Native American remains, the UDOT will contact FHWA within one (1) working day. The FHWA will provide notification to the Tribes within one (1) working day and invite the Tribes to visit the site containing the remains. If contact with the FHWA cannot be made within this timeframe, the UDOT may contact the Tribes directly for the purposes of expediting notification. The Tribes will be allowed access to the remains for the purpose of performing ceremonies, discussing treatment options, and monitoring excavation if removal is deemed necessary.
- 7.3.5 The Tribes will be compensated for expenses incurred to visit the burial site and/or perform ceremonies. Compensation will be based on and limited to those activities included within FHWA's Native American Tribal Consultation Policies and Guidelines.

7.4 *Excavation versus Preservation in Place:* At such time a discovery of human remains is made and construction ceases in the area of the discovery, and having satisfied the requirements of U.C.A. 76-9-704:

- 7.4.1 If the remains are in immediate danger of harm, or in the event that construction could not move, they will be excavated in accordance with R-230-1-7.1.b.
- 7.4.2 If the site at which the remains are located can remain intact and free from immediate harm, the site will be secured and a preservation plan will be implemented according to R-230-1-7.1.a.

7.5 *Custody of Remains:* Any excavated Native American remains will remain in the custody of the UDOT pending:

- 7.5.1 Consultation and determination of ownership by the Native American Remains Review Committee (NARRC) pursuant to Utah NAGPRA [U.C.A. 9-9-403 and R-230-1-13 *et seq.*], or
- 7.5.2 In the event of multiple requests for repatriation, the requesting parties agree upon its disposition, or
- 7.5.3 The dispute is otherwise resolved by a court of competent jurisdiction.

7.6 *Repatriation:* The repatriation of the individual will be consistent with Utah NAGPRA

[U.C.A.9-9-403 and R-230-1-13 *et. seq.*]. It is incumbent upon all parties to this MOA to work towards the repatriation of human remains in as timely manner as allowable by law. FHWA is responsible for ensuring that the UDOT and its consultants follow state law procedures and the stipulations contained herein.

- 7.7 *Status Inquiry*: At any time in the process, the Tribes may inquire with FHWA as to the status of human remains associated with this Project. It is the responsibility of the FHWA to address the questions and concerns of any Tribe within five (5) working days. If the Tribes are interested in verifying the physical condition and storage treatment of any human remains, a verbal or written request must be submitted to FHWA. FHWA is responsible for arranging a meeting within five (5) working days, or at the earliest convenience of the interested Tribe(s).
- 7.8 *Dispute Resolution*: Disputes on issues not governed by Utah NAGPRA shall be resolved according to dispute resolution procedures described in this MOA (Stipulation 8.6). Disputes on issues governed by Utah NAGPRA shall be submitted to the NARRC in accordance with state law (U.C.A. 9-9-405) and the NARRC will resolve these disputes.
- 7.9 *Treatment of Human Remains and Associated Funerary Items Governed by Utah NAGPRA*

7.9.1 Human Remains

7.9.1.1 Any and all human remains that have been damaged or removed due to construction activity will be immediately returned to accompany the remains still present in the site.

7.9.1.2 Pursuant to Utah NAGPRA, scientific study of human remains may be carried out only with approval of the owner of the human remains as established in U.C.A. 9-9-403(1) and (2). If ownership is unknown, scientific study shall be restricted to that sufficient to identify ownership but will be limited to non-destructive analysis.

7.9.2 Associated Funerary Items/Items of Cultural Patrimony

7.9.2.1 Unless otherwise identified, associated funerary items/items of cultural patrimony found near or about the discovery of human remains will be immediately returned to accompany the human remains. Associated funerary items are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later, with or near individual human remains.

7.9.2.2 Objects of cultural patrimony mean items having ongoing historical, traditional, or cultural importance central to the Indian tribe itself. If they are so identified, documentation of these materials will be included in the reports as funerary objects and/or items of cultural patrimony

8 ADMINISTRATIVE STIPULATIONS

8.1 *Changes in the Undertaking*

- 8.1.1 If an alternative other than the recommended preferred is selected, an amendment to the MOA would be made in accordance with Stipulation 8.8, and the amended MOA would reflect mitigation measures associated with the adversely affected properties.

- 8.1.1.1 If an alternative other than the recommended preferred is selected, and the project does not require the use of the properties in the Fairbourn Historic District, the three properties already owned by UDOT on 11400 South (170 W, 175 W, and 180 W) would be considered adversely affected because they would most likely be sold as surplus property.
- 8.1.2 FHWA and UDOT shall ensure that any changes to the Project that affect the terms and conditions of the MOA are covered by corresponding proposed amendments to the MOA in accordance with Stipulation 8.8.
- 8.1.3 If, during the Project planning or implementation, modification and/or changes are proposed in ancillary areas that have not been previously inventoried for historic properties, the UDOT shall ensure that the area is inventoried and that historic properties are evaluated in a manner consistent with the inventory, evaluation, and standards identified in Stipulation 6 of this MOA. The UDOT will prepare a draft report(s) of the inventory results and submit said document(s) to the parties of this MOA for review and comment. UDOT will review comments and prepare a final report incorporating, as determined necessary, the comments. Final reports will be provided to the parties of this MOA.
- 8.1.4 The parties to this MOA shall be afforded an opportunity to comment within 30 days on documents prepared in response to revisions to the undertaking.
- 8.2 *Documents*
- 8.2.1 The UDOT shall ensure that any/all reports on activities carried out pursuant to this MOA are provided to the SHPO, the Council, the Tribes (if applicable), and upon request to any other consulting parties, following completion of the activities stipulated in the MOA.
- 8.2.2 Unless otherwise stated, document review shall be 30 days following receipt of said document submitted for review. Unless notified, the FHWA and UDOT may assume failure of any party to respond within 30 days indicates their concurrence.
- 8.3 *Personnel Qualifications*: The UDOT shall ensure that all work carried out pursuant to this agreement is completed by, or under the direct supervision of, a person or persons meeting or exceeding the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (36 CFR 61)
- 8.4 *Phasing*: If construction of the project is to be phased, certain measures such as marketing, moving and salvaging elements may be done at a later date. A cooperative agreement would be developed between UDOT, SHPO, and the affected parties to this MOA to provide for the process.
- 8.5 *Tribal Consultation Process*: Unless otherwise agreed upon, Tribal consultation will occur between the FHWA and the Tribes throughout the Project.
- 8.6 *Dispute Resolution*
- 8.6.1 Should the signatory parties to this MOA object within 30 days to any documentation provided for review pursuant to this MOA, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request further comments of the Council pursuant to 36 CFR 800.9. Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR 800.9 with reference only to the subject of the dispute; the FHWA responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain

unchanged.

- 8.6.2 The Utah Division of Indian Affairs State Native American Remains Review Committee (NARRC) will arbitrate disputes relative to Utah NAGPRA in accordance with U.C.A. 9-9-405 (3)(c), if consultation fails to resolve the dispute.

8.7 *Duration.* This agreement will be null and void if its terms are not carried out within five (5) years from the date of its execution. In such event the FHWA shall notify parties to this agreement in writing, and if it chooses to continue with the undertaking, shall re-initiate review for the undertaking in accordance with 36 CFR Part 800.

8.8 *Amendment*

- 8.8.1 Any signatory party to this MOA may request an amendment (s), whereupon the other signature parties will consult to consider such amendment(s).
- 8.8.2 Any proposed amendment to this MOA must be submitted to the FHWA in writing, with an explanation as to the reasoning for the requested change. The FHWA will initiate consultation with the signatory parties for their consideration of the proposed amendment(s) under the time provisions as set forth in 9.8.3.
- 8.8.3 The FHWA will provide copies of written request(s) for amendment from any signatory party to all other signature parties within 3 days, and the parties agree to begin discussions regarding proposed amendments immediately.

8.9 *Termination*

- 8.9.1 If the MOA is not amended following the consultation set out in Stipulation 8.8, it may be terminated by any signatory by written notification.
- 8.9.2 Within 30 days following termination, the FHWA shall notify the signatories if it will initiate consultation to execute a new MOA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the Council under 36 CFR 800.7(a) and proceed accordingly.

8.10 *Reports on Implementation*

- 8.10.1 On or before July 1 of every year until the FHWA and SHPO agree in writing that the terms of this agreement have been fulfilled, the UDOT shall prepare and provide all parties to this agreement a summary report detailing work undertaken pursuant to its terms. Such report shall address the following topics:
- Progress in constructing the project;
 - Progress in recording, marketing, and relocating the adversely affected properties;
 - Status of projects undertaken with the financial compensation (if provided);
 - Results of archaeological monitoring, if construction has been undertaken;
 - Any inadvertent discoveries that have been made, if construction has been undertaken;
 - Any problems or unexpected issues encountered during the year; and
 - Any changes that the FHWA or UDOT believe should be made in implementation of this agreement.
- 8.10.2 The signatories to this agreement shall review the annual report and provide comments to the UDOT. Non-signatory parties to this agreement may review and comment on the annual report at their discretion.

- 8.10.3 At the request of any party to this agreement, the FHWA shall ensure that a meeting or meetings are held to facilitate review and comment, to resolve questions, or to resolve adverse comments.
- 8.10.4 Based on this review, the signatories to this agreement shall determine whether this agreement shall continue in force, be amended, or be terminated.

Execution of this Memorandum of Agreement by the FHWA and the Utah SHPO; the UDOT, Cities of South Jordan and Draper, the Certified Local Governments of South Jordan and Draper; and the Skull Valley Band of Goshute, Utah and the Shoshone-Bannock Tribes, Idaho; the submission of documentation and filing of this Memorandum of Agreement with the Council pursuant to 36 CFR 800.6(b)(1)(iv) prior to the FHWA's approval of this undertaking, and implementation of its terms, evidence that the FHWA has taken into account the effects of this undertaking on historic properties, and has afforded the Council an opportunity to comment on the UDOT Project *SP-15-7(156)293: 11400 South EIS Project, Salt Lake County, Utah.

SIGNATORIES:

THE FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 5/05/05
David C. Gibbs, Division Administrator

UTAH STATE HISTORIC PRESERVATION OFFICER

By:  Date: 5/7/05
Wilson Martin, Utah State Historic
Preservation Officer

INVITED SIGNATORIES:

UTAH DEPARTMENT OF TRANSPORTATION

By:  Date: 5/03/05
for Randy Park, Region 2 Director

SOUTH JORDAN CITY

By:  Date: 4/24/05
W. Kent Money, Mayor

DRAPER CITY

By:  Date: April 12, 05
Darrell H. Smith, Mayor

CONCURRING PARTIES

SOUTH JORDAN HISTORICAL SOCIETY

By: Luane A. Jensen Date: 4/29/05
Luane Jensen, Chair

DRAPER HISTORIC PRESERVATION COMMISSION

By: Paul Evans Date: 4/21/05
Paul Evans, Chair

SKULL VALLEY BAND OF GOSHUTE INDIANS

By: _____ Date: _____
Leon Bear, Chairman

SHOSHONE-BANNOCK TRIBES

By: _____ Date: _____
Nancy Murillo, Chairperson

ATTACHMENT A

UDOT STANDARD SPECIFICATION FOR DISCOVERY OF HISTORIC, ARCHEOLOGICAL OR PALEONTOLOGICAL OBJECTS

Standard Specification Section 01355, Part 1.10, Discovery of Historical, Archaeological or Paleontological Objects

Standard Specification Section 01355, Part 1.10, Discovery of Historical, Archaeological or Paleontological Objects, will be enforced during this project. This specification stipulates procedures to be followed should any archaeological, historical, or paleontological resource be discovered during construction of the project. These procedures are as follows:

1. Immediately suspend construction operations in the vicinity of the discovery if a suspected historic, archeological or paleontological item, feature, prehistoric dwelling sites or artifacts of historic or archeological significance are encountered.
2. Verbally notify the ENGINEER of the nature and exact location of the findings.
3. The ENGINEER contacts the State archeological authorities to determine the disposition of the objects.
4. Protect the discovered objects and provide written confirmation of the discovery to the ENGINEER within 2 calendar days.
5. The ENGINEER keeps the CONTRACTOR informed concerning the status of the restriction.
 - The time necessary for the DEPARTMENT to handle the discovered item, feature, or site is variable and dependent on the nature and condition of the discovered item.
 - Expect a two (2) week or more delay in the vicinity of the discovery.
 - The Engineer will provide written confirmation when the restriction is terminated.

Should a discovery occur, the FHWA will consult with the SHPO/THPO, and the Council in accordance with 36 CFR 800.13(b)(3) toward developing and implementing an appropriate treatment plan prior to resuming construction.